

**AGREEMENT BETWEEN THE CITY OF NAPERVILLE AND THE NAPERVILLE  
FIRE PROTECTION DISTRICT FOR INSTALLATION OF WATER MAIN AND  
ACQUISITION OF A FIRE TRUCK**

This agreement (“Agreement”) between the Naperville Fire Protection District (“**District**”), a Fire Protection District created pursuant to the Illinois Fire Protection District Act (70 ILCS 705 (hereinafter referred to as the “**Act**”)), and the City of Naperville (“**City**”), an Illinois municipal corporation and home rule unit of local government, is made this \_\_\_\_ day of \_\_\_\_\_, 2017.

**W I T N E S S E T H:**

**WHEREAS**, 70 ILCS 705/11(a) of the Act authorizes fire protection districts to contract for fire protection; and

**WHEREAS**, the City and District have heretofore entered into a long-term contract for twenty years with three, ten year options to extend providing for the City (and/or any fire district or municipality with which the City has a mutual aid agreement) to provide all territory within the District with fire protection and ambulance services (“Naperville Service Agreement”); and

**WHEREAS**, the Naperville Service Agreement between the City and District provides for the use of the District’s reserve funds to be utilized for specific line items to provide for needed Naperville Fire Department equipment to enhance the level of service to the City and the District; and

**WHEREAS**, the City has informed the District that a new fire truck with water carrying capacity of One Thousand Two Hundred and Fifty (1,250) gallons will greatly enhance service to territory within the District where municipal hydrants are not available, thereby reducing the risk of personal injury and property damage in a large portion of the District’s territory as well as the City; and

**WHEREAS**, the City has also identified territory within the District (“Green Acres Subdivision”) that could significantly benefit from the installation of City water main and a City hydrant which the City anticipates will significantly reduce response times and reduce the risk of personal injury and property damage.

**NOW, THEREFORE**, in consideration of the mutual agreements herein contained, it is hereby agreed by and between the parties as follows:

1. **Installation of Green Acres Water Main.** At no cost to the District or residents of the District, the City agrees that at its sole cost it will design, engineer, install and maintain a twelve-inch (12') water main, fire hydrant, and related improvements in the locations as shown on the engineering specifications and plans attached hereto as **Exhibit "A"** prepared by the City of Naperville and dated September 6, 2017 (the improvements are collectively referred to as "Water Main"). It is anticipated that the design, engineering and installation costs for the Water Main will exceed the sum or Three Hundred and Fifty Thousand Dollars (\$350,000.00) which shall be completed at the City's sole cost no later than April 30, 2018, or such other timeframe as may be agreed upon in writing by the District and the Chief of the Naperville Fire Department. Upon installation, the Water Main shall be owned, maintained and operated by the City at the City's sole cost. The City shall take all reasonable steps to ensure that the Water Main remains fully operational in order to enhance the life safety within the Green Acres Subdivision. The City shall be solely responsible to obtain all property rights necessary to install the Water Main. The City agrees to defend, indemnify, and hold the District harmless for all injuries and damages arising out of the design, engineering and operation of Water Main.

2. **Contribution Toward City Owned Fire Truck.** Upon completion of the Water Main as specified in paragraph 1 above, the District shall reimburse the City for the actual cost to Purchase a new fire tuck ("Fire Truck") with water holding capacity of not less than One Thousand Two Hundred and Fifty (1,250) gallons which will significantly improve fire protection services to the District. This District's obligation to reimburse the City for the Fire Truck shall under no circumstances exceed the sum of Six Hundred and Fifty Thousand Dollars (\$650,000.00) The anticipated specifications for the Fire Truck are attached hereto as **Exhibit "B"**. The final Fire Truck specifications will be agreed upon by the District and City Fire Chief. The District shall have no obligation to maintain the Fire Truck which shall be the sole obligation of the City.

3. **Liability.** The District shall not be held liable to the City or to any person for any alleged negligence in responding to a fire call in the District or in the manner or method of fighting any such fire, or for failure of the equipment. The individual Trustees of the District signing this Agreement, along with their successor Trustees, shall not be liable to the City for any expenses the City may have by reason of the claims or lawsuit of any person alleging negligence in the City's performance of this Agreement. The City shall not be held liable to the

District or to any person for any alleged negligence in responding to a fire call in the District or in the manner or method of fighting any such fire, or for failure of the equipment.

4. **Failure to Timely Install the Water Main.** In the event the City fails to install the Water Main by April 30, 2018, or such other timeframe as may be agreed upon in writing by the District and the Chief of the Naperville Fire Department, this Agreement, along with all District and City obligations hereunder, shall become null and void having no force or effect.

5. **General Provisions.**

(a) Venue. This Agreement shall in all respects be subject to and construed in accordance with and governed by the laws of the State of Illinois. Venue for any action arising out of the terms or conditions of this Agreement shall be proper only in the Circuit Court for the Eighteenth Judicial Circuit, DuPage County, Illinois.

(b) Ambiguity. This Agreement shall be construed without regard to any presumption or other rule requiring construction against the party causing this Agreement to be drafted.

(c) No Waiver. Neither party shall be deemed, by any act of omission or commission, to have waived any of its rights or remedies hereunder unless such waiver is in writing and signed by waiving party and, then only to the extent specifically set forth in the writing. A waiver with reference to one event shall not be construed as continuing or as a bar to or waiver of any right or remedy as to a subsequent event.

(d) Severability. If any of the provisions of this Agreement shall be declared invalid for any reason, such invalidation shall not affect other provisions of this agreement which can be given effect without the invalid provisions, and to this end the provisions of this Agreement are to be severable.

(e) Authority. The undersigned warrant and represent that have read and understand this Agreement and that they are authorized to execute this Agreement.

**IN WITNESS WHEREOF**, the parties hereunto have signed this Agreement this \_\_\_\_ day of \_\_\_\_\_, 2017.

**CITY OF NAPERVILLE**

**NAPERVILLE FIRE PROTECTION  
DISTRICT**

By: \_\_\_\_\_  
Douglas A. Krieger  
City Manager

By: \_\_\_\_\_  
Ken Hagenbaumer  
President

**ATTEST:**

By: \_\_\_\_\_  
Pam Gallahue, Ph.D.  
City Clerk

By: \_\_\_\_\_  
Stephen A. Grobl  
Secretary

By: \_\_\_\_\_  
Rick Oloffson  
Treasurer